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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/588,879	06/06/2000	Nobuyoshi Morimoto	5596-00200	1074

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EXAMINER	
ENGLAND, DAVID E	
ART UNIT	**PAPER NUMBER**
2143	

DATE MAILED: 08/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/588,879	MORIMOTO, NOBUYOSHI	
	Examiner	Art Unit	
	David E. England	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 May 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-37* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-37* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1 – 37 are presented for examination.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1 – 3, 5, 6, 8, 9, 11, 12, 14 – 16, 18 – 22, 24 – 26, 28 – 31, 33, 34, 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shelton et al. (6418471) (hereinafter Shelton) in view of Eichstaedt et al. (666230) (hereinafter Eichstaedt).

3. Referencing claim 1, Shelton teaches a method for identifying distinct users accessing a web site, the method comprising:

4. storing one or more records in a database, wherein each record comprises an Internet address and a time value, and wherein each record corresponds to a different computer accessing said web site, (e.g. col. 10, lines 16 – 42);

5. receiving a first request from a first computer to access the web site, (e.g. col. 6, lines 7 – 23);

6. sending a request for information to said first computer, wherein said information comprises a first Internet address corresponding to said first computer, (e.g. col. 6, lines 7 – 23);

7. receiving said information, (e.g. col. 6, lines 7 – 23), but does not specifically teach a first time value;

8. determining whether a matching record for said first Internet address and said first time value exists in said database; and

9. identifying said first computer as a distinct user if said matching record does not exist in said database.

10. Eichstaedt teaches sending a request for information to said first computer, wherein said information comprises a first Internet address corresponding to said first computer, (e.g. col. 7, lines 23 – 63, *"IP address, deny list*);

11. a first time value, (e.g. col. 7, lines 23 – 63, *"time value t*);

12. determining whether a matching record for said first Internet address and said first time value exists in said database, (e.g. col. 7, lines 23 – 63, *"IP address, time value t, deny list*); and

13. identifying said first computer as a distinct user if said matching record does not exist in said database, (e.g. col. 7, lines 23 – 63, *"a real user and not a robot"*). It would have been obvious to one skilled in the art at the time the invention was made to combine Eichstaedt with Shelton because it would be more efficient for a system to update and log users interactions with a web sites which could aid in the determination in trends or stop invalid users, (robots), from accessing site that would require human interaction for payment of services, (example: robot programs buying large quantities of tickets to music venues and selling those tickets illegally at a higher price when the music venue is sold out.

14. As per claim 2, Shelton teaches said time value is associated with a user-defined event, (e.g. col. 10, lines 16 – 42 & col. 10, line 61 – col. 11, line 7).

15. As per claim 3, Shelton teaches said user-defined event is a launch of a web browser software on said first computer system, (e.g. col. 10, lines 16 – 42 & col. 10, line 61 – col. 11, line 7).

16. As per claim 5, Shelton teaches said Internet address is an Internet Protocol (IP) address, (e.g. col. 10, lines 16 – 42 & col. 10, line 61 – col. 11, line 7).

17. As per claim 6, Shelton teaches the database is an object oriented database or a relational database, (e.g. col. 10, lines 16 – 42 & col. 10, line 61 – col. 11, line 7).

18. As per claim 8, Shelton teaches said first computer is a personal computer, a laptop computer, a notebook computer, an Internet-enabled cellular phone, an Internet-enabled personal digital assistant, or an Internet-enabled television, (e.g. col. 1, lines 15 – 45).

19. Claims 9, 11, 12, 14 – 16, 18 – 22, 24 – 26, 28 – 31, 33, 34, 36 and 37 are rejected for similar reasons as stated above.

20. Claims 4, 7, 10, 13, 17, 23, 27, 32 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shelton et al. (6418471) (hereinafter Shelton) in view of Eichstaedt (666230) in further view of Bodnar et al. (6295541) (hereinafter Bodnar).

21. As per claim 4, Shelton and Eichstaedt do not specifically teach said time value is generated by a time keeping device, wherein said time keeping device is configured to synchronize said time value with a global time keeping standard clock. Bodnar teaches said time value is generated by a time keeping device, wherein said time keeping device is configured to synchronize said time value with a global time keeping standard clock, (e.g. col. 9, lines 19 – 60 & col. 25, line 52 – col. 26, line 20). It would have been obvious to one skilled in the art at the time the invention was made to combine Bodnar with the combine system of Shelton and Eichstaedt because it would be more efficient for a system to have a standard clock set to monitor users in trends in users accessing the web site and when the most users access the web site at a time, (peek time), and adjust the web site to accommodate the users as such.

22. As per claim 7, Shelton and Eichstaedt teach all that is described above but does not specifically teach said timestamp for said matching record is older than a predetermined maximum time. Bodnar said timestamp for said matching record is older than a predetermined maximum time, (e.g. col. 27, line 40 – col. 28, line 31). It would have been obvious to one skilled in the art at the time the invention was made to combine Bodnar with the combine system of Shelton and Eichstaedt because it would be more efficient for a system to update the database after a predetermined max time so to have a

dynamic database that would never have information that is older then the predetermined max time which would aid in the determination of user trends in close to real-time data.

23. Claims 10, 13, 17, 23, 27, 32 and 35 are rejected for similar reasons as stated above.

Response to Arguments

24. Applicant's arguments filed 05/10/2004 have been fully considered but they are not persuasive.

25. In the remarks, Applicant argues in substance that Shelton in view of Eichstaedt does not teach or suggest sending a request for information to the first computer, wherein the information comprises a first Internet address and a first time value corresponding to the first computer, as recited in claim 1.

26. As to part 1, Examiner would like to draw the Applicant's attention to Eichstaedt, in which states on column 7, lines 23 – 31, "*...in step 47, the GET massage and IP address or other client identifiers are obtained*," which as also been clarified above. Therefore, Shelton in view of Eichstaedt do teach sending a request for information to the first computer, wherein the information comprises a first Internet address and a first time value corresponding to the first computer, as recited in claim 1, as broadly interpreted by the Examiner.

27. Applicant is also reminded when reviewing a reference the applicants should remember that not only the specific teachings of a reference but also reasonable inferences which the artisan would have logically drawn therefrom may be properly evaluated in formulating a rejection. In re Preda, 401 F. 2d 825, 159 USPQ 342 (CCPA 1968) and In re Shepard, 319 F. 2d 194, 138 USPQ 148 (CCPA 1963). Skill in the art is presumed. In re Sovish, 769 F. 2d 738, 226 USPQ 771 (Fed. Cir. 1985). Furthermore, artisans must be presumed to know something about the art apart from what the references disclose. In re Jacoby, 309 F. 2d 513, 135 USPQ 317 (CCPA 1962). The conclusion of obviousness may be made from common knowledge and common sense of a person of ordinary skill in the art without any specific hint or suggestion in a particular reference. In re Bozek, 416 F.2d 1385, 163 USPQ 545 (CCPA 1969). Every reference relies to some extent on knowledge of persons skilled in the art to complement that which is disclosed therein. In re Bode, 550 F. 2d 656, 193 USPQ 12 (CCPA 1977).

28. In the remarks, Applicant argues in substance that Shelton in view of Eichstaedt does no teach or suggest determining a matching record for the first Internet address and the first time value exists in the database, and identifying the first computer as a distinct user if the matching record does not exist in the database, as recited in claim 1.

29. As to part 2, Examiner would like to point to the above response to the Applicant's arguments, which also applies to this response in regards to identifying a distinct user if the IP address passes the deny list and moves on to the comparison of time periods and request frequency. Furthermore, the Applicant is asked to view Figure 3 and columns 7 and 8 that describe Figure 3 of Eichstaedt. In which, the time period along

with the number of requests is compared to what is in a database. This along with other section of the prior art disclosed reads on the claim language of the Applicant's application. Furthermore, the claim language is void of teaching who, what and/or where the sending a request for information is coming from and what is receiving said information. If the Applicant were to amend the claim language to be more specific on these and other points it could over come the prior art as stated in the Office Action but would require further search and consideration.

30. In the remarks, Applicant argues in substance that the Examiner has not provided a proper motivation to modify Shelton according to Eichstaedt. More specifically, *"Applying the method for automatically limiting access of a client computer to data objects taught by Eichstaedt to the web site in Shelton would only serve to filter out browser interactions from robots and prevent the determination of trends which the Examiner cites as a reason to combine Shelton and Eichstaedt. However, filtering out browser interactions would defeat the intended purpose of Shelton to record all browser activity to the web site."*

31. As to part 3, Examiner would like to draw the Applicant's attention to the remark stated above, *"filtering out browser interactions would defeat the intended purpose of Shelton to record **all browser** activity to the web site."* Shelton does not teach recording "***all browser*** activity". Shelton states in the "Summary Of The Invention", "*...the present invention provides a method for repeating browsing activities performed by **a customer or user**.*" As know in the art a "robot" is not a legitimate user or customer as stated in Eichstaedt, (e.g. col. 6, lines 21 – 41). Combinding Eichstaedt with Shelton would make

it more accurate to monitor a web site and/or server with legitimate trends from legitimate users rather then having "robots" that are only programmed to collect data from random web site. If robots were aloud to get through to the system it would change the monitoring of users and give incorrect trends in legitimate user visitations to a wet site.

Conclusion

32. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. England whose telephone number is 703-305-5333. The examiner can normally be reached on Mon-Thur, 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 703-308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David E. England
Examiner
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De DE

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